

House Bill 1409

By: Representatives Rogers of the 26th, Stephens of the 164th, and Harbin of the 118th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 3 of Title 46 of the Official Code of Georgia Annotated, relating to
2 electrical service, so as require a document retention policy for electric membership
3 corporations; to allow for electronic voting by members of electric membership corporations;
4 to require a certified audit of policies and procedures; to provide for legislative findings; to
5 provide for related matters; to provide effective dates; to repeal conflicting laws; and for
6 other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 The General Assembly finds that electric membership corporations in Georgia are largely
10 unregulated and do not face any market competition which would operate to ensure that these
11 electric membership corporations act in the best interest of their members. Because the
12 potential for abuse exists among electric membership corporations absent state regulation,
13 the General Assembly finds that certain needed reforms will ensure that electric membership
14 corporations deal fairly with all consumers and classes of consumers and provides such
15 reforms in this Act.

16 **SECTION 2.**

17 Chapter 3 of Title 46 of the Official Code of Georgia Annotated, relating to electrical service,
18 is amended by adding new Code Sections 46-3-183 and 46-3-184 to read as follows:

19 "46-3-183.

20 (a) Electric membership corporations organized pursuant to this article shall retain the
21 following documents for a period of not less than 15 years:

22 (1) Any and all documents reflecting payments by members for contributions in aid of
23 construction or other charges required by the electric membership corporation prior to the
24 provision of electric service;

1 (2) Any and all documents reflecting the construction cost incurred by the electric
2 membership corporation for providing electric service;

3 (3) Any and all contracts or other written agreements with members for the provision of
4 electric service;

5 (4) Any and all documents utilized in calculating the construction costs incurred by the
6 electric membership corporation for providing electric service, including, but not limited
7 to, staking sheets, contract working papers, job analysis reports, spreadsheets, proposals,
8 and other similar documentation;

9 (5) Minutes from all meetings of the board of directors;

10 (6) Rate schedules;

11 (7) Schedules for the apportionment and retirement of construction costs to the
12 consumer;

13 (8) All financial statements and audits of the financial records;

14 (9) All policies and procedures audits, as required by Code Section 46-3-184; and

15 (10) Documents reflecting charges assessed to and payments received from members.

16 (b) It shall be considered compliance with this Code section for the preservation of these
17 documents by electronic recordation, including microfilm, microfiche, or digital imaging,
18 provided that such electronic recordation fully and accurately captures all information
19 contained on the original document.

20 (c) All documents described in this Code section in the possession of an electric
21 membership corporation at the time of the effective date of this Code section shall be
22 retained by the electric membership corporation. In the event such documents are not in
23 existence at the time of the effective date of this Code section, no penalty shall be assessed
24 against the electric membership corporation.

25 (d) In the event a civil action is filed against an electric membership corporation and it is
26 determined that the electric membership corporation has failed to comply with the
27 requirements of this Code section, the plaintiff in that action shall be entitled to a charge
28 to the jury as to spoliation of evidence relating to any documents not properly retained in
29 compliance with this Code section. Destruction of documents beyond the time period
30 provided for in this Code section shall not subject the electric membership corporation to
31 any such charge to the jury.

32 46-3-184.

33 (a) The board of directors of any electric membership corporation shall at least once each
34 year have made by independent certified public accountants an audit of the policies and

1 procedures of the electric membership corporation to ensure that the electric membership
2 corporation is complying with these policies and procedures in an equitable manner.

3 (b) A report of the audit made under subsection (a) of this Code section shall be signed and
4 certified by the accountants who make it. A signed copy of the report shall be submitted
5 to the board of directors for approval or rejection and maintained in the files of the electric
6 membership corporation for a period of 15 years. The electric membership corporation
7 shall also file an original of the audit made under subsection (a) of this Code section with
8 the Secretary of State as provided in this article."

9 SECTION 3.

10 Said chapter is further amended by striking subsection (f) of Code Section 46-3-266, relating
11 to voting by electric membership corporation members generally, and inserting a new
12 subsection (f) to read as follows:

13 ~~"(f) The principles of subsection (e) of this Code section shall apply, insofar as possible,~~
14 ~~to the execution of proxies, waivers, consents, or objections and for the purpose of~~
15 ~~ascertaining the presence of a quorum.~~

16 (f)(1) The General Assembly finds:

17 (A) This Code section sets forth the qualifications and conditions of voting by
18 members of electric membership corporations;

19 (B) Voting by Internet or e-mail proxy would allow for more members of electric
20 membership corporations to be involved in the voting process; and

21 (C) It is advantageous to encourage members of electric membership corporations to
22 vote on all issues allowed by the bylaws of the electric membership corporation and as
23 allowed by law.

24 (2) All electric membership corporations under this article shall allow members to vote
25 on all issues allowed by the bylaws of the electric membership corporation and all other
26 issues allowed by law by e-mail or the Internet using the electric membership
27 corporation's website. To facilitate this voting procedure and to ensure security and
28 integrity in the voting process, all electric membership corporations shall issue unique
29 user names and passwords to all members."

30 SECTION 4.

31 (a) Except as provided in subsection (b) of this Code section, this Act shall become effective
32 upon its approval by the Governor or upon its becoming law without such approval.

33 (b) Subsection (f) of Code Section 46-3-266 shall become effective one year following
34 approval of this Act by the Governor or upon its becoming law without such approval.

1 **SECTION 5.**

2 All laws and parts of laws in conflict with this Act are repealed.